

U.S.S.N. 10/007,197
Filed: December 4, 2001
AMENDMENT

U.S.S.N. 09/661,836

The rejection over U.S.S.N. 09/661,836 is improper. Double patenting requires that the claims be of exactly the same scope. Claims 1-14 of this application contain two limitations **not** found in any one claim of U.S.S.N. 09/661,836:

- (1) That the tetracycline is in the form of a metal ion complex, and
- (2) that less than 10% of the tetracycline is absorbed into the systemic circulation when topically administered.

Claim 11 recites the first limitation; claims 12 and 13 recite the second limitation. Accordingly, while the examiner may make a rejection under the doctrine of obviousness type double patenting over claims 11-13, the claims may not be rejected as double patenting.

09/815,762

The claims in U.S.S.N. 09/815,762 are similar different from the claims pending in this application. Neither independent claim 15 nor any of the claims dependent thereon have both of the limitations required by claim 15 in this application.

In summary, there is no double patenting between the three recited applications.

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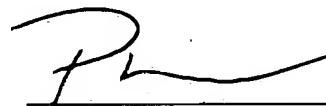
Rejection under 35 U.S.C. 112

Claim 24 was rejected as indefinite. This rejection is respectfully traversed if applied to the amended claim.

Claim 24 has been amended to recite "formulating" instead of "making", although it is believed that "making" is a perfecting acceptable method step under 35 U.S.C. 112.

Allowance of all claims 1-11 and 13-24 as amended is respectfully solicited.

Respectfully submitted,



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Date: JULY 24, 2002
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